

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GARY FELLOWS,

Defendant.

8:19-CR-28

ORDER

Defendant has filed a *pro se* motion for compassionate release (Filing 155) pursuant to [18 U.S.C. § 3582\(c\)\(1\)\(A\)](#), which permits a defendant (after exhausting administrative remedies) to move for reduction of a term of imprisonment based upon “extraordinary and compelling reasons.” Additionally, Defendant filed a separate motion for appointment of counsel. Filing 156. On its initial review of the defendant’s compassionate release motion, the Court finds that the defendant has at least colorable claim under [§ 3582\(c\)\(1\)\(A\)](#), and that appointment of counsel would help the Court determine whether the defendant merits relief under that section. Accordingly,

IT IS ORDERED:

1. Defendant’s Motion for Appointment of Counsel (Filing 156) is granted. The Federal Public Defender for the District of Nebraska is appointed to represent the defendant for the limited purpose of determining whether there are extraordinary and compelling reasons to reduce Defendant's term of imprisonment;
2. In the event the Federal Public Defender should decline this appointment because of a conflict of interest or on the basis of the Amended Criminal Justice Act Plan, the Federal Public Defender shall provide the Court with a draft appointment order (CJA Form 20) bearing the name and other identifying information of the CJA Panel attorney identified in accordance with the Amended Criminal Justice Act Plan for this district;
3. If upon his review the Federal Public Defender should conclude that Defendant's motion is frivolous, the Federal Public Defender may move to withdraw as counsel;
4. The government shall respond to Defendant’s motion on or before August 10, 2020. The Federal Public Defender shall promptly file any supplementary briefing or evidence necessary to the Court’s disposition of the motion. Absent an extension, Defendant’s motion shall be deemed submitted as of August 11, 2020; and

5. The Office of U.S. Probation and Pretrial Services is authorized to disclose Presentence Investigation Reports to the Federal Public Defender and the United States Attorney for the purpose of evaluating the defendant's motion. The Federal Public Defender shall provide the Presentence Investigation Report to any subsequently appointed or retained counsel. In accordance with the policy of the Federal Bureau of Prisons, no Presentence Investigation Report shall be provided to inmates.

Dated this 3rd day of August, 2020.

BY THE COURT:

A handwritten signature in black ink, appearing to read "B.C. Buescher", written over a horizontal line.

Brian C. Buescher
United States District Judge